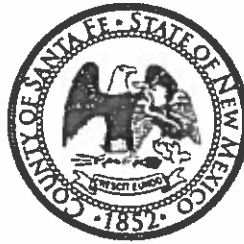


Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *October 26, 2016*

TO: *Board of County Commissioners*

FROM: *Bill Taylor, Purchasing Director*

VIA: *Katherine Miller, County Manager*
Michael Kelley, Public Works Department Director
Jeffrey Trujillo, ASD Director

ITEM AND ISSUE: *BCC Meeting November 08, 2016*

Request Approval of Agreement No. 2017-0127-OS/BT with Tierra Right of Way Services in the Amount of \$336,920, Exclusive of NMGR to Provide Property Acquisition Services Associated with the Santa Fe River Greenway Project and Granting Signature Authority to the County Manager to Sign the Purchase Order. (Bill Taylor, Purchasing Division/Scott Kaseman, Public Works)

ISSUE:

In June 2012, the Purchasing Division issued a Request for Proposals (RFP) for professional right of way acquisition services and entered into a four (4) year contract with Tierra Right of Way Services in September 2012 in the amount of \$496,969.00. The term of the original Agreement has expired and property acquisitions in Priority Areas B and C still remain to be completed. In order to maintain the integrity of the intent of the Agreement a sole source determination was made by the County Procurement Manager as a new professional services agreement with Tierra Right of Way Services to continue to provide the property acquisition services.

The Purchasing Division requests approval to enter into a professional services agreement (PSA) with Tierra Right of Way Services for the Santa Fe River Greenway project. The new agreement is required to complete all right of way acquisitions, including appraisals, appraisal review environmental assessments, negotiations with property owners and closing services for right of way and/ or easements along the Santa Fe River that are remaining for the Project.

BACKGROUND:

Since 1998 Open Space and Trails Program staff have been working to acquire the land along the Santa Fe River to achieve the long-term goal of creating a public greenway and trail system. The Santa Fe River Greenway project involves restoring the river to a healthier and more natural state and constructing a continuous greenway of trails and parks from the current City limits near Frenchy's Field to the Wastewater Treatment Plant on the west side of NM 599. The project corridor is approximately eight miles long.

For the last 4 years Tierra Right of Ways has been providing acquisition services for the Santa Fe River Greenway under Agreement No. 2012-0237-OS/PL which expired on September 25, 2016.

During the contract term the County has closed on 10 of the 16 parcels required for construction of the Greenway in Section "A" (Frenchy's Field to Siler Road) and has obtained signatures on Purchase Agreements for 4 of the remaining 6 required parcels which are scheduled for closing in September. The negotiations for the remaining 2 parcels have been difficult but are proceeding with one parcel currently now being finalized.

One parcel has been purchased in Section "B" (Siler Rd to San Ysidro Crossing) with 7 other Offer Packages having been prepared and ready for presentation to the owners. Preliminary negotiations for an easement with the City across Richards Avenue have also begun.

The acquisition process along the Greenway has been complicated and difficult. The new Agreement is necessary to complete the original scope of work for the following reasons:

- Acquisitions for the Santa Fe River Greenway are unusually complex and time consuming due to the nature of property ownership along the River. Complex issues encountered in Priority A include overlapping property boundaries and title claims, prescriptive rights claims by adjacent property owners, environmental remediation, jurisdictional issues due to annexation, several long, difficult negotiations with property owners, two parcels with no clear ownership or chain of title creating a no-man's land, and negotiations with unresponsive or recalcitrant mortgagees for partial releases.
- The proposed scope of work includes relocation assistance for one individual property owner. This was not included in the original cost proposal.
- Several property owners have mortgages, judgments or other liens that require partial releases. The original cost proposal assumed that obtaining the releases would be completed by the title company; however, Tierra staff has spent a significant amount of time obtaining the releases prior to closing. Tierra will assist the County with obtaining the partial release in Priority B.
- At the direction of County staff, Tierra is negotiating with BLM to complete the Recreation and Public Purposes Act Application in Priority C.

Tierra's fee for acquisition services is \$199,920.00. The cost proposal also includes pass-through fees for title work, appraisals, appraisal review and environmental site assessments. These costs total \$137,000.00. The total amount including Tierra's fees and the pass-through expenses is \$336,920.00 excluding NMGR. Funding will be provided by the 2012 General Obligation Bond.

ACTION REQUESTED:

Approval of Agreement No. 2017-0127-OS/KE with Tierra Right of Way Services in the amount of \$336,920.00, exclusive of NMGR and grant signature authority to the County Manager to sign the Purchase Order and contract for Tierra Right of Way Services.

Property and Right-of-Way Acquisition Agreement
between Santa Fe County and
Tierra Right of Way Services, Ltd.

Agreement made, as of _____, 2016 between Santa Fe County, a political subdivision of the State of New Mexico (hereinafter the "County"), and Tierra Right of Way Services, Ltd., 1575 E. River Road, Suite 201, Tucson, Arizona 85718.

RECITALS

WHEREAS, Santa Fe County is planning the restoration of a portion of the Santa Fe River and the design and construction of a trail system along the Santa Fe River known as the Santa Fe River Greenway; and

WHEREAS, the planned location of the Santa Fe River Greenway requires the County to acquire parcels of real property or rights-of-way from land owners whose property is within or adjacent to the proposed Santa Fe River Greenway; and

WHEREAS, the County has benefitted from the Contractor's real property acquisition services for four years since 2012 and it is in the best interest of the County and the Greenway project to have Contractor continue to provide services through completion of the acquisition process of the Santa Fe River Greenway; and

WHEREAS, in accordance with Section 13-1-129, NMSA 1978, the County Procurement Manager has issued a sole source determination as the basis for the continuation of Contractor's assistance and services for two years.

NOW THEREFORE, in consideration of the premises and mutual obligations herein the parties hereto do mutually agree as follows:

Section One
Contractor's Scope of Services

A. Upon written notice to proceed issued by the County, the Contractor shall provide land and right-of-way acquisition services, or otherwise create a right to acquire any interest in property for the County's completion of the Santa Fe River Greenway as follows:

1. Analyze and research the existing County right-of-way and meet with the County to discuss alternatives for the County's consideration and/or determine the most appropriate and cost-effective approach to completion of the Santa Fe River Greenway.
2. Identify all the owners of record of real property from whom the County needs to acquire a fee interest or right-of-way for the Santa Fe River Greenway.

3. Contact the property owners to initiate discussions and negotiations regarding the County's acquisition of a right-of-way or fee interest in their property. Contractor shall provide a right of entry form or other document evidencing the owners' permission for Contractor to enter their property for Santa Fe River Greenway development and planning purposes.
4. If requested by the County, obtain a Right of Entry form from property owners using a form provided by the County.
5. Complete a written report to the County updating the County on the Contractor's progress and discussions with property owners, indicating the real property interests (fee or grant of right-of-way) that owners are willing to convey to the County and any property owners that are unwilling to convey a fee or right-of-way interest.
6. Following a meeting between Contractor and the County to discuss Contractor's progress, the County shall authorize Contractor to proceed with the next steps to acquire land or rights-of-way from property owners.

B. Appraisals.

1. With notice to and permission from the property owners, Contractor shall complete appraisals or other appropriate valuations to determine the cost or compensation to be paid to acquire a fee interest in a parcel or a right-of-way in a parcel.
2. Appraisers shall be licensed by the State of New Mexico, conform to the National Uniform Standards of Professional Appraisal Practice, and be a certified MAI appraiser in conformity with Santa Fe County Resolution No. 2011-61.
3. Contractor shall be familiar with the acquisition services governed by the Acquisition Volume of the NMDOT Right of Way Acquisition Handbook (http://dot.state.nm.us/Infrastructure/ROW_Handbook.pdf); the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 C.F.R. Part 24); and the reporting requirements of the Appraisal Institute and the Uniform Standards of Professional Practice of the Appraisal Foundation.
4. As appropriate for projects receiving federal funding, Contractor shall provide to property owners information about Title VI of the Civil Rights Act of 1964 (42 USC 200d).

5. Inform property owners that they may accompany the appraiser on the appraiser's inspection of the parcel or property.
 6. Appraisals shall conform to the minimum recognized standards for public acquisition including zoning, all property rights to be acquired, highest and best use analysis, comparables, improvements acquired, damages, cost to cure, summary and tabulation of market data, analysis of market data and conclusions of value, severance damages and benefits where applicable.
 7. Contractor shall submit all appraisals for appraisal review by a certified review appraiser. The review appraiser shall review appraisals for consistency of values, supporting documentation related to the conclusions in the appraisal, compliance with County Resolution or Ordinance and compliance with the Uniform Standards of Professional Appraisal Practices.
 8. Review appraisals will include confirmation of highest and best use, damages and cost to cure damages; confirmation of value; confirmation of calculations and report integrity; and a signed statement certifying the appraised value including an explanation of the basis for any recommendations.
 9. Contractor shall submit all completed appraisal, appraisal reviews and appraisal reports to the County for review and comment.
- C. Acquisition of right-of-way or fee interest in a parcel.
1. Complete a preliminary title report to determine the condition of the title and identify any issues or problems. The preliminary title report shall recommend to the County methods to cure title deficiencies.
 2. Analyze the appraisal report and confirm the appraised value. Recommend to the County the price or value that should be offered by the County for the fee interest in a parcel.
 3. With prior approval by the County, proceed with applications for lot splits or lot line adjustments.
 4. Identify and notify the County of any environmental concerns associated with a proposed right-of-way acquisition that may require environmental remediation.
 5. Submit to the County for its review and approval, the offer letter (offer to purchase) or right-of-way agreement with all pertinent information such as the appraisal and/or purchase agreement. Upon authorization of the County, send the offer or agreement with attachments by certified mail return receipt to the property owner. Follow up with the owner to confirm receipt of the offer and respond to owner inquiries verbally and in writing within two (2) business days.

5. If an owner accepts an offer and executes the purchase agreement, or executes the right-of-way agreement, submit the executed document to the County for review and approval.

D. Closing Services for purchases.

1. Secure preliminary title commitment and preliminary title search from the title company that will provide title insurance.
2. Secure title commitment updates as necessary.
3. Secure title insurance for all parcels purchased by the County, insuring acceptable title to Santa Fe County and removal of all exceptions.
4. Recommend to the County actions that may be required in order to provide clear title to the County. Contractor may proceed with such recommended actions upon authorization from the County.
5. Prepare all documents necessary for closing and attend closings.
6. Upon the conclusion of a closing, record all original documents with the Office of the Santa Fe County Clerk.

E. Environmental Assessment. Contractor shall:

1. Complete a Phase I Environmental Site Assessment (ESA) in compliance with ASTM Standard E1527-05 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process."
2. The Phase I ESA Report shall include those criteria required by the Environmental Protection Agency's AAI rule.
3. Identify and notify the County of any negative environmental issues or concerns that are revealed in the ESA. Contractor shall meet with the County to discuss any environmental issues and provide recommendations on methods for resolving or addressing such issues or concerns.

F. Administration and File Management. Contractor shall:

1. Provide monthly summaries of project expenses and services performed under this Agreement, including budget forecasting and planned services.
2. Maintain updated status reports of all parcel and project activities and provide bi-weekly status reports to the County's Project Manager.

3. Provide a schedule of all areas of work indicating anticipated start and end dates.
4. Participate in project review meetings at dates and times determined by the County Project Manager.
5. Primary project and property files will be maintained in the County Open Space and Trails Office of Santa Fe County. Working files will be maintained in the Contractor's project administration office but all original documents prepared or received by the Contractor will be forwarded to the Open Space and Trails Office as they are prepared or received.
6. Maintain all copies of all correspondence, information and records pertaining to contact and communication with property owners, including all right of entry forms.

G. Eminent Domain proceedings and Litigation support. Contractor shall notify the County if acquisition of a right-of-way or fee interest in a parcel from a property owner is not completed due to the property owner's unwillingness to negotiate and complete such acquisition.

1. The County will determine a schedule to initiate eminent domain proceedings in conformity with the Eminent Domain Code, Section 42A-1-1 NMSA 1978 et seq.
2. Contractor and Contractor's appraisers shall provide litigation support services including coordination and assistance with any eminent domain proceeding initiated by the County in cases where a right-of-way or purchase of a parcel has not occurred. Contractor's and Contractor's appraisers' litigation support services shall include providing testimony and other litigation support services as part any eminent domain proceeding.

Section Two County's Duties

A. The County's Project Manager for the Santa River Greenway shall work with the Contractor and serve as the Contractor's primary contact with the County. The County's duties include:

1. Review and approval of any document or agreement prepared by the Contractor that requires execution by the County and property owners, including all purchase contracts, right-of-way agreements, other instruments of conveyance and determine when eminent domain proceeding will be initiated.
2. All required approvals by the County shall be in conformity with Santa Fe County Resolution No. 2014-143 which provides for approval by the Board of County

Commissioners or the Santa Fe County Manager, or any applicable Resolution pertaining to acquisitions for the Santa Fe River Greenway.

Section Three Compensation

A. In consideration of its obligations under this Agreement the Contractor shall be compensated as follows:

1. The County shall pay to the Contractor in full payment for services satisfactorily performed an amount not to exceed \$336,920.00, exclusive of NM grt. Compensation shall be paid for the services performed as provided in Exhibit A, attached hereto and incorporated herein by reference.
2. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.
3. The compensation stated herein is a maximum and not a guarantee that the services to be performed by the Contractor shall equal the amount stated herein. The County will notify the Contractor when the County has paid the Contractor the full not-to-exceed amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without his Agreement being amended in writing in accordance with Section Seventeen herein.
4. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the items and/or services. Within 30 days of the issuance of a written certification accepting items and services, the County shall tender payment for the accepted items and services. In the event the County fails to tender payment within 30 days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.
5. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
6. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

Section Four **Effective Date and Term**

This Agreement shall, upon execution by all parties, become effective as of the date of signature by the County and shall terminate two years from the Effective Date, unless terminated earlier pursuant to Section Five (Termination) or Section Eleven (Appropriations and Authorizations). Subject to the express approval of the Santa Fe County Manager, the County has the unilateral option to extend the term of this Agreement at the same hourly rate(s) and terms and conditions for one year. The County may exercise this option by providing written notice to the Contractor at least 60 days prior to expiration of this Agreement. Under no circumstances shall the term of this Agreement be more than two years in total.

Section Five **TERMINATION**

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective 30 days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within 30 days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than 15 days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

Section Six **Independent Contractor**

The Contractor, its agents, employees and any approved subcontractor(s) are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use the County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

Section Seven **Assignment**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

Section Eight **Subcontracting**

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

Section Nine **Indemnification**

- A. The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranties made herein.
- B. The Contractor agrees that the County shall have the right to participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.
- C. The Contractor's obligations under this Section shall not be limited to the amount of Contractor's insurance coverage required by this Agreement.

Section Ten **Records and Inspections**

- A. To the extent its books and records relate to (i) its performance of this Agreement or any

subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles ("GAAP").

- B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

Section Eleven

Appropriations and Authorizations

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

Section Twelve

Permits, Fees and Licenses

The Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

Section Thirteen

Release

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

Section Fourteen Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval of the County.

Section Fifteen Publication, Reproduction, and use of Material: Copyright

- A. The County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.
- B. The Contractor acknowledges and agrees that any material produced in whole or in part under or pursuant to this Agreement is a work made for hire. Accordingly, to the extent that any such material is copyrightable in the United States or in any other country, the County shall own any such copyright.

Section Sixteen Conflict of Interest

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

Section Seventeen No Oral Modifications; Written Amendment Required

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section One of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement. No change in the Scope of Work, Contract Time or Contract Compensation shall be valid and effective unless approved by the Santa Fe Board of County Commissioners or the Santa Fe County Manager.

Section Eighteen
Entire Agreement; Integration

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

Section Nineteen
Equal Opportunity Compliance

- A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

Section Twenty
Severability

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

Section Twenty One
Compliance with Applicable Law; Choice of Law

- A. In performing its obligation hereunder, the Contractor shall comply with all applicable laws, County ordinances and other policies or regulations as required by this Agreement.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. The Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the State District Court of New Mexico, located in Santa Fe County.

Section Twenty Two
Notice of Penalties

The Procurement Code, NMSA 1978, Section 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

Section Twenty Three
No Third Party Beneficiaries

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

Section Twenty Four
Facsimile Signatures

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

Section Twenty Five
Limitation of Liability

The County's liability to the Contractor for any breach of this Agreement by the County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section Three of this Agreement. In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

Section Twenty Six
New Mexico Tort Claims Act

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by the County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq.

Section Twenty Seven
Insurance and Bonding

- A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.
- C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.
- D. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.
- E. Professional Liability, Malpractice/Errors and Omissions Insurance. Contractor shall procure and maintain during the life of this Agreement professional liability (errors and omissions) insurance in amounts not less than \$1,500,000.00 per occurrence, \$2,500,000.00 per aggregate.

Section Twenty Eight
Contractor's Representations and Warranties

The Contractor hereby represents and warrants:

- A. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.
- B. This Agreement and the Contractor's obligations hereunder do not conflict with the Contractor's articles of incorporation, by-laws or any corporate agreement or statement filed with the Public Regulation Commission.
- D. Contractor is registered and licensed to operate a business in New Mexico and all appraisal work will be performed by an appraiser properly licensed by the New Mexico Real Estate Appraiser's Board to do the work anticipated by this Agreement, and shall maintain such registration and licensure in good standing throughout the duration of this Agreement.

Section Twenty Nine
Campaign Contribution Disclosure Form

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

Section Thirty
Notices

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Katherine Miller, Manager
Attn: Open Space and Trails Project Director
Santa Fe County
102 Grant Avenue
P.O. Box 276
Santa Fe, NM 87504-0276

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Dwight Ferrick or Mack Dickerson
Tierra Right of Way Services, Ltd.
1575 E. river Road, Suite 201
Tucson, AZ 85718

Agent for Service: Contractor hereby irrevocable appoints Susie Rogers, c/o Tierra Right of Way Services, Ltd., a New Mexico resident company locate at 718 Central Avenue SW, Albuquerque, New Mexico 87102, as its agent upon whom process and write in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as through the Contractor were actually and personally served within the State of New Mexico.

Section Thirty One
Survival

The provisions of following paragraphs shall survive termination of this Contract: INDEMNITY, RECORDS AND INSPECTION, RELEASE, CONFIDENTIALITY, COPYRIGHT, COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW, NO THIRD-PARTY

BENEFICIARIES, NEW MEXICO TORT CLAIMS ACT, INSURANCE, WARRANTIES, AND SURVIVAL.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

Miguel M. Chavez, Chair
Santa Fe County Board of Commissioners

ATTESTATION:

Geraldine Salazar
Santa Fe County Clerk

Approved as to form

Gregory S. Shaffer
Santa Fe County Attorney

Date

FINANCE DEPARTMENT

Don D. Moya
Finance Director

Date

Contractor

(name and title)

Date:

Priority A:

Complete remaining acquisitions

		Tierra Pass-Through Expenses (outside services)				
		Hours:	Title:	Env. Ph 1:	Appraisal:	Appraisal Rev.
Parcel	11A	6	\$ -	\$ -	\$ -	\$ -
Parcel	11	4	\$ -	\$ -	\$ -	\$ -
Escrow closings, releases		16				
Survey coordination and platting		8	\$ -	\$ -	\$ -	\$ -
Relocation services		115	\$ -	\$ -	\$ -	\$ -
Environmental remediation coordination		24	\$ -	\$ -	\$ -	\$ -
GIS		2				

Priority B:

Acquisitions: (Title reports/Phase 1 completed)

Parcel	B-2	40	\$ -	\$ -	\$ 1,250.00	\$ 1,000.00
Parcel	B-3, B-5	80	\$ -	\$ -	\$ 1,500.00	\$ 1,000.00
Parcel	B-6	40	\$ -	\$ -	\$ 1,250.00	\$ 1,000.00
Parcel	B-7	40	\$ -	\$ -	\$ 1,600.00	\$ 1,000.00
Parcel	B-24	40	\$ -	\$ -	\$ 1,300.00	\$ 1,000.00
Parcel	B-4	40	\$ -	\$ -	\$ 1,250.00	\$ 1,000.00

New Acquisitions: (23)

Parcel	B-8	22				
Parcel	B-9	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-11	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-13	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-14	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-15	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-16	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-17	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-17A	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-18	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-19	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-18/B-19 overlap	22				
Parcel	B-20	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-21	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-22	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-23	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-25	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-26	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-27	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-28	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-29	72	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-30	72	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00
Parcel	B-31	45	\$ 200.00	\$ 1,650.00	\$ 3,000.00	\$ 1,000.00

Escrow closings:

	174					
File Closeouts: (29)	58	\$ -	\$ -	\$ -	\$ -	\$ -
Project Management	120					
GIS/clerical	18					

Priority C:

BLM RPPA

BLM EA

Sub-Totals:

TOTALS:*

24	\$ -	\$ -	\$ -	\$ -
12				
1904	\$ 4,200.00	\$ 34,650.00	\$ 71,150.00	\$ 27,000.00
105				
\$199,920.00	\$ 4,200.00	\$ 34,650.00	\$ 71,150.00	\$ 27,000.00

\$ 336,920.00

*-Does not include NMGR

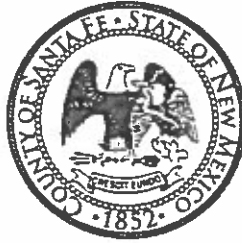
** Orange column indicates Tierra labor only.

*** Green columns indicate outside services subcontracted by Tierra.

Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: November 1, 2016

TO: Board of County Commissioners

FROM: Michael Kelley, Public Works Department Director MK 11/1/16

VIA: Katherine Miller, County Manager

ITEM AND ISSUE: BCC Meeting November 8, 2016

Request to Publish Title and General Summary of an Ordinance Establishing Santa Fe County Utility Water Service Rates and Charges and Repealing All Prior Water Service Rates and Charges (Public Works/Claudia Borchert)

SUMMARY:

Staff is requesting to publish title and general summary of an Ordinance Establishing Santa Fe County Utility Water Service Rates and Charges and Repealing All Prior Water Service Rates and Charges (Ordinance), which establishes water service rates and charges to recover recent increases to the County Water Utility (Utility) operational and maintenance costs. Additionally, the proposed rate increase provides for repair, replacement, and emergency reserves. The attached PowerPoint slides present background information, itemize the cost requirements, describe the in-house, cost-of-service analysis, and summarize the proposed, phased rate increase. The attached draft Ordinance provides the specifics on the proposed rates and charges.

BACKGROUND:

The current rate schedule for the Utility does not generate adequate revenue to cover the costs of operation and maintenance. The attached slides provide background information on the Utility, the increased costs the Utility is facing, the in-house cost of service analysis, and a proposed modification to rates and fees.

DISCUSSION:

Staff will present a subset of the attached slides with the Board, including the drivers for the changes to rates and fees, the proposed adoption schedule, and planned outreach to the Utility customers.

ACTION REQUESTED:

Approval to publish of title and general summary of an Ordinance Establishing Santa Fe County Utility Water Service Rates and Charges and Repealing All Prior Water Service Rates and Charges.

Attachments:

- PowerPoint presentation titled: "County Utility In-house Water Cost-of-Service Study and Water Rate & Fee Proposal
- Draft Ordinance Establishing Provisions For Setting Santa Fe County Utility Water Service Rates and Charges and Superseding All Prior Rates and Charges.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

ORDINANCE NO. 2016-____

AN ORDINANCE ESTABLISHING SANTA FE COUNTY UTILITY WATER SERVICE RATES AND CHARGES AND REPEALING ALL PRIOR WATER SERVICE RATES AND CHARGES

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY:**

1. **SHORT TITLE.** This Ordinance shall be cited as the "Water Utility Service Rates and Charges Ordinance" and is referred to herein as "the Ordinance" or "this Ordinance."

2. **AUTHORITY.** This Ordinance is enacted pursuant to NMSA 1978, § 4-37-1 (1975), and § 4-36-10.

3. **DEFINITIONS.**

The definitions set out in the Sustainable Land Development Code ("SLDC"), County Ordinance No. 2015-11, and in County Resolution No. 2012-88, as the same may be amended from time to time. In addition:

"County Water Utility" or "CWU" means the water system owned and operated by Santa Fe County.

"Director" means the CWU Director.

"Water Budget" means the total water requirement of a development, or phase of development, that will be provided by the CWU plus twenty percent (20%).

"Water Service Connection" means the physical connection of a property to the CWU water system.

4. **FINDINGS.**

A. County water utility service rates and charges must be just and reasonable and cover the cost of service.

B. The existing CWU service rates and charges are not adequate because they do not cover the County's cost in providing water service.

C. The service rates and charges established under this Ordinance will enable the County to better cover the cost of service to CWU customers.

D. The rates and charges adopted under this Ordinance are equitable across customer classes and water system users.

E. The service rates and charges adopted under this Ordinance are designed to encourage water conservation

5. GENERAL PROVISIONS

A. **Rate Applicability.** The water utility service rates and charges adopted by this Ordinance shall apply to all CWU customers and those required to connect to the CWU under the SLDC.

B. **Terms of Payment.** All bills are net and payable within twenty (20) days from the date of bill. If payment for any service rendered is not made within thirty (30) days from the date the bill is rendered, the Utility shall apply an additional late charge of 1 ½ percent per month to the total balance in arrears, excluding gross receipts tax. Partial payment of amount due by Customer is applied first to the oldest bill, including any other fees or charges assessed, if any, before any amount is applied to current bill. Any checks that are denied payment due to insufficient funds will be charged the penalty as assessed by the County bank and the County Treasurer.

6. WATER SERVICE RATE SCHEDULE – SINGLE-FAMILY RESIDENTIAL

A. Residential service shall apply where single water meters serving only one residential dwelling unit for domestic water use or a single water meter which serves more than one dwelling unit for normal domestic water provided that the use is limited to the residents and their guests and are not open to the general public or to memberships for persons not residing there. The meter may also serve uses commonly associated with residential dwelling units, such as home occupation, as permitted by the County, spas, and landscaping.

B. Where a dwelling unit is used for both residential and non-residential purposes not associated with home occupations, the water service will be billed under the applicable non-residential rate schedule. When separate piping is installed to meter water service to each class of service, billing will be rendered in accordance with the applicable rate schedule.

C. Monthly Rates: The water service bill shall be based on the total of the applicable service charges set out in Tables 1 and 2:

Table 1: Monthly Service Charge per Meter Size

Meter Size	Monthly Service Fee	Effective Date
5/8-inch or 3/4-inch	\$17.00	January 1, 2017
	\$18.42	January 1, 2018
1-inch	\$19.70	January 1, 2017
	\$21.42	January 1, 2018

Table 2: Commodity Rate (per thousand gallons)

Tier Range (gallons)	Price per 1,000 gallon	Effective Date
Tier 1: 0-4000g	\$ 6.12	January 1, 2017
Tier 2: 4,001-10,000g	\$ 8.75	January 1, 2017
	\$ 9.00	January 1, 2018
Tier 3: >10,000 g	\$18.00	January 1, 2017
	\$21.72	January 1, 2018

7. WATER SERVICE RATE SCHEDULE – MULTI-FAMILY RESIDENTIAL

A. Multi-Family Residential service shall apply to single water meters for domestic use serving more than one dwelling unit. The meter may also serve uses commonly associated with multiple dwelling units such as home occupations, spas, landscaping, and common rooms, etc., provided that their use is limited to the residents and their guests and are not open to the general public or to memberships for persons not residing at the unit.

B. Monthly Rates: The water service bill shall be based on the total of the applicable service charges set out in Tables 3 and 4:

Table 3: Monthly Service Charges

Monthly Service Fee (per dwelling unit)	Effective Date
\$17.00	January 1, 2017
\$18.42	January 1, 2018

Table 4: Commodity Rates (per thousand gallons)

Tier Range (gallons multiplied by number of dwelling units)	Price per 1,000 gallon	Effective Date
Tier 1: 0-4000g	\$ 6.12	January 1, 2017
Tier 2: 4,001-10,000g	\$ 8.75	January 1, 2017
	\$ 9.00	January 1, 2018
Tier 3: >10,000 g	\$18.00	January 1, 2017
	\$21.72	January 1, 2018

8. WATER SERVICE RATE SCHEDULE – NON-RESIDENTIAL

A. Non-residential water rates shall apply to water meters two inches or less serving uses not classified by the CWU as single-family residential or multi-family residential service. Where a dwelling unit is used for both residential and non-residential purposes not associated with a home occupation, the water service will be billed under the applicable non-residential rate schedule. When separate piping is installed to separately meter water service to each class of service, billing will be rendered in accordance with the applicable rate schedule.

B. Monthly Rates: The basic water service bill exclusive of any additional charges, fees, or penalties shall be based on the total of the applicable charges set out in Tables 5 and 6:

Table 5: Monthly Service Charges per Meter Size

Meter Size	Monthly Service Fee	Effective Date
5/8-inch	\$ 29.17	January 1, 2017
	\$ 32.81	January 1, 2018
¾-inch	\$ 45.34	January 1, 2017
	\$ 47.08	January 1, 2018
1-inch	\$ 72.20	January 1, 2017
	\$ 74.97	January 1, 2018
1½-inch	\$139.35	January 1, 2017
	\$144.71	January 1, 2018
2-inch	\$219.92	January 1, 2017
	\$228.38	January 1, 2018

Table 6: Commodity Rates (per thousand gallons)

Tier Range (gallons)	Price per 1,000 gallon	Effective Date
Tier 1: 0-5000 g	\$ 6.07	January 1, 2017
	\$ 6.23	July 1, 2017
	\$ 6.38	January 1, 2018
Tier 2: 5,001-10,000 g	\$ 8.38	January 1, 2017
	\$ 8.60	July 1, 2017
	\$ 8.81	January 1, 2018
Tier 3: 10,000-15,000 g	\$12.99	January 1, 2017
	\$13.33	July 1, 2017
	\$13.66	January 1, 2018
Tier 4: >15,000 g	\$17.53	January 1, 2017
	\$17.99	July 1, 2017
	\$18.44	January 1, 2018

9. WATER SERVICE RATE SCHEDULE – HIGH VOLUME

A. High-volume water rates shall apply where water meter(s) serves a use not classified as single family residential or multi-family residential service as set forth above and are served by a meter greater than 2 inches. High Volume use includes those uses classified as Wholesale 1, Wholesale 2, and Mutual Domestic under the former utility rate schedule adopted under Resolution No. 2012-88 and Rate Schedule 5 (Wholesale Water Sales) under Resolution No. 2011-79. Non-residential water service shall also apply where the water meter(s) serves a combination of residential and commercial services. If a compound meter is installed, the meter charge will be based on the meter line size.

B. Monthly Rates: The basic water service bill exclusive of any additional charges, fees, or penalties shall be based on the total of the applicable charges set out in Tables 7 and 8:

Table 7: Monthly Service Charges per Meter Size

Meter Size	Monthly Service Fee	Effective Date
3-inch	\$ 440.39	January 1, 2017
4-inch	\$ 523.21	January 1, 2017
6-inch	\$ 1,041.17	January 1, 2017
8-inch	\$1,662.75	January 1, 2017
10-inch	\$2,309.04	January 1, 2017

Table 8: Commodity Rate (per thousand gallons: no tiers)

Tier Range (gallons)	Price per 1,000 gallon	Effective Date
All	\$ 6.07	January 1, 2017
	\$ 6.23	July 1, 2017
	\$ 6.38	January 1, 2018

10. WATER SERVICE RATE SCHEDULE – RAW/NON-POTABLE

A. Raw/non-Potable water rates shall apply where water non-potable water service is provided.

B. Monthly Rates: The basic water service bill exclusive of any additional charges, fees, or penalties shall be based on the total of the applicable charges in set out in Table 5 or 7, whichever applies, and Table 9:

Table 9: Commodity Rate (per thousand gallons; no tiers)

Tier Range (gallons)	Price per 1,000 gallon	Effective Date
All	\$ 4.23	January 1, 2017
	\$ 4.47	July 1, 2017
	\$ 4.71	January 1, 2018

11. WATER SERVICE RATE SCHEDULE – AUTOMATED SELF-SERVE WATER-DISPENSING FACILITY (OJO DE AGUA)

A. Water is available at the County's automated, self-serve, water-dispensing facility (Ojo de Agua) at the rates identified in Table 10. Payment is due in advance and payable at the CWU customer service. Self-serve residential water sales are limited to 5,000 gallons per month per customer. Each non-residential customer shall be limited to 325,851 gallons (1.0 acre-foot) per year. The water dispensing facility is available only for domestic water use to residents of Santa Fe County that are not on a domestic well or a community water system. Exceptions to the limitations above may be granted by the Director upon adequate demonstration of need.

B. Rates: The charges for self-serve water shall be as provided in Table 10:

Table 10: Commodity Rate (per gallons; no tiers)

Customer Class	Price per gallon	Effective Date
Residential	\$ 0.01	January 1, 2017
Commercial	\$ 0.02	January 1, 2017

12. WATER SERVICE RATE SCHEDULE – PRIVATE FIRE HYDRANT AND FIRE SERVICE LINE

A. This rate applies to owners of private fire hydrants used for only fire protection and individual customers who have a fire service line.

B. In order to assure proper operation of fire hydrants, no water shall be drawn through any fire hydrant for any other purpose than fire protection, except as provided by special permit from the CWU.

C. Rates: For each private fire hydrant or fire service line, billing shall occur annual and consist of a \$200.00 fee plus the applicable accrued monthly charges set in Table 11:

Table 11: Rate Schedule for Fire Service Line

Service Line Size	Monthly Fee
3-inch	\$ 21.19
4-inch	\$ 34.68
6-inch	\$ 68.39
8-inch	\$108.84
10-inch	\$159.89

13. WATER SERVICE CHARGES

A. **Account Set-up:** A charge of \$25.00 will be assessed on applications for water service account set-up due to a new service connection or a change in customer using an existing connection following the close-out of a former account. The account set-up charge will be added to the new customer's first bill. In addition to completing an application form, the applicant must submit proof of property ownership and a copy of applicant's driver's license. Applications may be submitted to the County Water Utility in person, via mail or via email. If the water service applicant is not the owner of a property, the tenant shall provide a copy of the rental agreement and the owner of a property shall co-sign the new service account agreement and agree to be responsible for any unpaid balances. Property owner may elect to receive a copy of the monthly bill to stay informed of tenant's account status.

B. **Customer Deposit:** A deposit of \$100 will be charged to all new accounts and will be added to the first customer bill. Following 12 timely-submitted monthly payments, the deposit will be credited to the customer's account. This deposit may be waived if the new account applicant has a proven history of timely payment with CWU or provides proof of timely payment history from another water utility.

C. **Reconnection:** Whenever service is discontinued for payment delinquency, a reconnection fee of \$90.00 plus tax shall be charged to the customer. Once payment is received service will be reconnected during normal business hours.

D. Water Shut-off; Meter Lock: A charge of \$30 per site visit will be assessed to customers requesting a water shut-off, seasonal meter lock, or water service resumption. Monthly service charges will still apply to all services with locked meters.

E. Customer-Side Leak Adjustment: Upon a customer's request and submitted proof of a customer-side leak repair, the CWU may adjust one monthly bill cycle to charge only the Tier 1 rate for all metered water. The CWU shall make an adjustment under this provision no more than one time per customer.

F. Meter Test: Upon request by the customer, the County shall have the customer's meter tested. The customer shall be responsible for the testing costs. The test costs will be absorbed by CWU if the meter is found to register more than 2 percent over the customer's previously registered use.

G. Water Service: Customers requesting new water service will be assessed a one-time charge based on the size of the meter. The charge for each meter service size shall be determined by multiplying the 5/8-inch meter service charge by the applicable meter equivalency units (MEU). Water service charge is due when notice is provided to the customer prior to the installation of the service line.

Meter Service Size	MEU	Water Service Charge
5/8-inch	1	\$ 400
3/4-inch	1.5	\$ 600
1-inch	2.5	\$ 1,000
1½-inch	5	\$ 2,000
2-inch	8	\$ 3,200
3-inch	15.6	\$ 6,240
4-inch	25	\$ 10,000
6-inch	50	\$ 20,000
8-inch	80	\$ 32,000

H. Meter Can Inspection: The charge for inspecting a meter can to assure its installation to CWU standards is \$30 per inspection.

I. Meter Installation: This charge applies to customers requesting a new meter installation and new water service connection and covers the cost of the meter and time and materials for installation. Water Service Connection Charge is due when notice is provided to the customer prior to the installation of the service line. Legal lots of record for which meters without registers were previously provided to the CWU will be charged for registers.

Meter Size	Installation Charge
5/8 or 3/4 -inch	\$ 400
1-inch	\$ 450
1 ½-inch	\$ 500

The cost for the installation of any meter larger than 1½-inch will be the actual price of the meter, plus material and labor costs. For expediency, a customer may purchase the meter designated by CWU and pay CWU customary rates to install it.

J. Water Rights; Fee in Lieu:

(1) As a condition of service to developments having a total Water Budget of 1 acre-foot per year or more for all phases combined, the CWU shall require the developer to transfer to the County Middle Rio Grande, pre-1907, surface water rights, valid contract rights, or other valid water rights acceptable to the CWU. The water rights or contract rights to water must be acceptable to the CWU and include a minimum consumptive use amount sufficient to meet the total Water Budget. The owner of the development shall bear the entire cost of demonstrating the validity, amount, priority, and other elements of any water rights to be transferred, transferring the water rights to the Buckman Direct Diversion or other points of diversion specified by the CWU, warranting title to the water rights, and transferring legal title to the County and recording the conveyance deed and change of ownership with the County clerk and New Mexico Office of the State Engineer.

(2) As a condition of service to developments having a total Water Budget of less than 1 acre-foot per year for all phases combined, the CWU shall require the developer to pay a fee in lieu of providing water rights or contract rights to the County, unless the developer chooses to provide water rights in accordance with Section 13(J)(1) above. Until the Board establishes a new fee by resolution, the fee in lieu shall be \$16,000 per acre-foot multiplied by the Water Budget. The purpose of the fee in lieu is to enable the County to purchase water rights to cover the Water Budget. For the fee in lieu, a connection to single residential dwelling unit, CWU will presume a minimum use of 0.25 acre-foot per year unless otherwise approved in accordance with the SLDC.

(3) For phased developments, the developer shall transfer water rights or pay the fee in lieu, as applicable, on a phase-by-phase basis.

K. Document Preparation: For subdivisions and other developments requiring a negotiated water delivery agreement, utility extension agreement, or other agreement between the County and the customer, the customer shall pay a document preparation charge of \$500 payable upon approval of the agreement.

L. Water Infrastructure Improvement Project Review: A review fee of ½ percent of the Engineer's cost estimate of customer-requested line extensions shall be charged for review of the project design documents. Payment shall be due prior to final CWU approval of the design documents.

M. Inspection Fee: For any water infrastructure build for the CWU, the CWU shall charge an inspection fee of 1.5% to cover the cost of inspecting construction in order to assure that the infrastructure meets CWU specifications. The payment shall be due upon initiation of construction.

N. Stand-by: Persons who own a legal lot of record for which no water service connection with the CWU has been established and which fronts a CWU distribution line that is currently tapped or can be tapped for a future water service connection shall pay a standby charge of \$3.55 per month. The CWU shall bill the lot owner of record for the standby charge annually or, to the extent not billed annually or timely paid, at the time lot owner requests water service. No lot owner shall be liable for more than a total of 36 months of accrued standby charges and no current owner shall be liable for a prior owner's outstanding standby charges.

O. Master Meter Surcharge: Where fewer than fifty CWU customers are served by a City of Santa Fe master meter, the CWU may add a master meter surcharge to each customer's monthly bill served by such a master meter. The charge shall equal the monthly charge of the master meter divided by the number of customers it serves.

P. System Acquisition Surcharge: If approved by resolution of the Board, the CWU may add a monthly system acquisition surcharge to the bills of customers served by a water system acquired by the County but originally constructed by a non-County utility. In deciding whether to impose the surcharge and the amount of the surcharge, the Board shall consider whether the system is isolated from the rest of the CWU system, whether the system is a significant distance from CWU operations, and whether it imposes significant additional costs on the County that should not be borne by the rest of the CWU customer base.

Q. Settlement Agreement Surcharge. The CWU may add a surcharge to the bills of customers where a County settlement resulted in significant additional costs to the CWU that should not be borne by the rest of the CWU customer base.

R. Taxes. Billings under this Ordinance may be increased by an amount equal to the sum of taxes payable under the Gross Receipts and Compensating Tax Act and of all other taxes, fees, or charges payable by the County and levied or assessed by any government authority on the public utility service rendered, or on the right or privilege of rendering the service, or any object or event incidental to the rendition of the service.

14. PROGRAMMED ANNUAL RATE AND FEE ADJUSTMENT

Beginning April 1, 2019, and each year thereafter, the rates and charges adopted through this ordinance shall be adjusted by the corresponding change in the Consumer Price Index (CPI) for Western Region for Urban Wage Earners and Clerical Workers. The CWU shall post each new rate and fee schedule on the Santa Fe County website.

15. REPEAL OF PRIOR RATES; EXISTING POLICIES AND PROCEDURES NOT INCONSISTENT WITH THIS ORDINANCE REMAIN IN EFFECT.

A. All water service rates formerly adopted by the County are hereby repealed, including those adopted under County Resolutions Nos. 2011-79, as amended, and 2012-88.

B. The policies and procedures adopted by the County under Resolutions Nos. 2006-57 and 2012-88, as the same may be amended from time to time, remain effective to the extent not inconsistent with this Ordinance. Resolution No. 2011-79, as amended, is hereby repealed.

16. **SEVERABILITY.** If a provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

17. **EFFECTIVE DATE.** This Ordinance shall become effective thirty (30) days after it is recorded in the office of the County Clerk unless specified otherwise herein

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THIS ____ DAY OF _____, 2016.

**BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Miguel M. Chavez, Chair

ATTEST:

Geraldine Salazar, Santa Fe County Clerk

Date: _____

APPROVED AS TO FORM:



Gregory S. Shaffer, Santa Fe County Attorney

Date: 11/1/2016

FINANCE DEPARTMENT APPROVAL:

By: _____
Carole H. Jaramillo
Santa Fe County Finance Director

Date: _____

County Utility In-house Water Cost-of-Service Study and Water Rate & Fee Proposal

**Board of County Commission
November 8, 2016**

Claudia Borchert, Erik Aaboe, and Jeanette Duran

Presentation Outline

- * Background on Utility – Section I
- * Method of Rate Analysis – Section II
- * Results and Findings – Section III
- * Proposed Action – Section IV

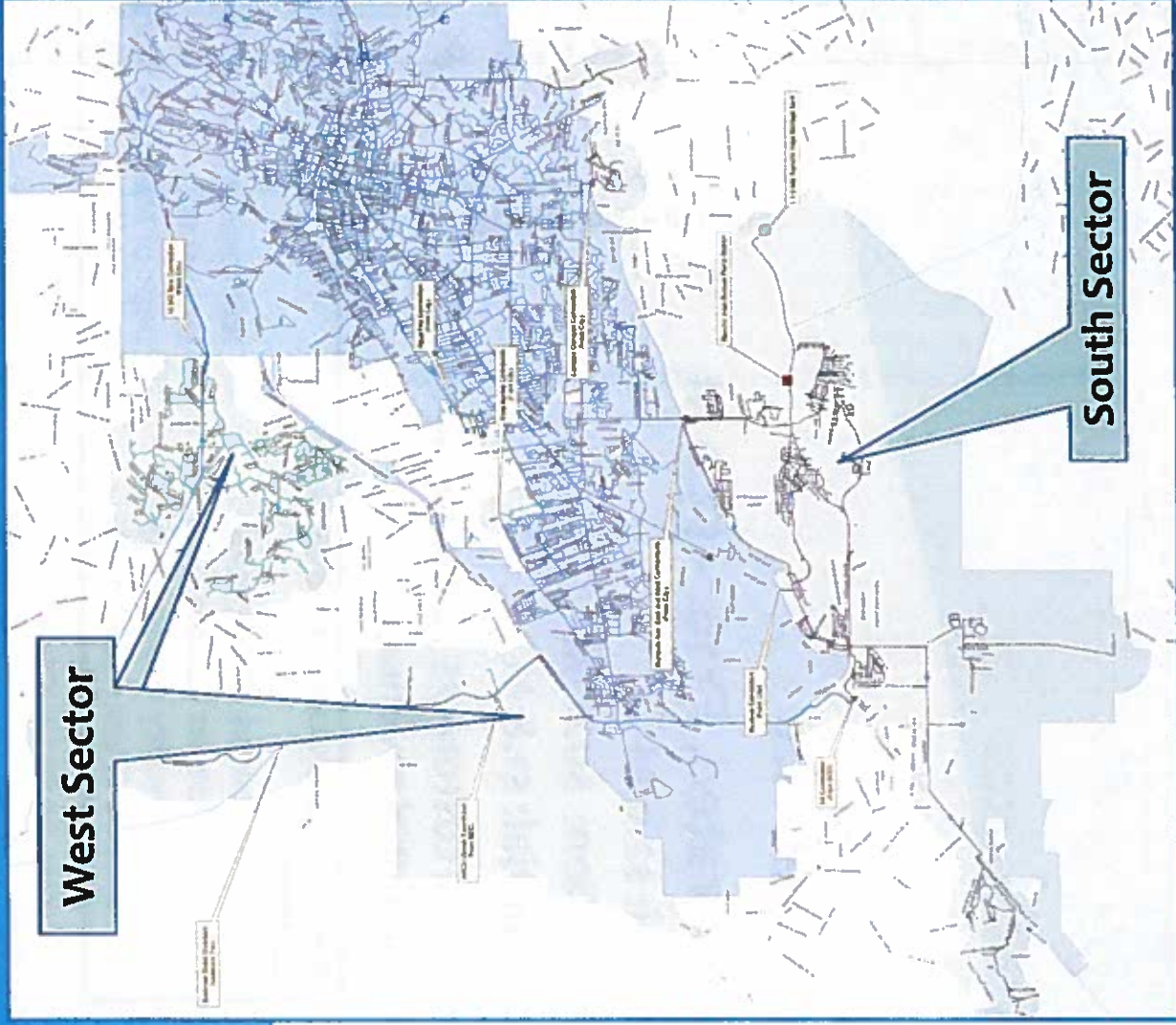
I. Background

- * Attributes of an Enterprise Utility
- * Water Service Area
- * Size and Revenue of Utility
- * Water Use
- * Residential Potable Water Use
- * Non-Residential Residential Potable Water Use
- * Safe, Reliable and Sustainable

Attributes of an Enterprise Utility

- * Designed so that rates and fees cover costs of:
 - * Ongoing operations
 - * Salaries, benefits, supplies, fuel, etc.
 - * Capital Assets required:
 - * Vehicles, equipment
 - * Reserves for Repair, Replacement and Emergencies
 - * Capital Improvements
 - * New waterlines, tanks, treatment, etc.
 - * External administrative support functions (HR, legal, etc.)

Water Service Area



Size and Revenue of Utility

* Number of accounts: ~3,020 serving ~10,000

people

* Residential: ~2,900

* Non-residential: ~120

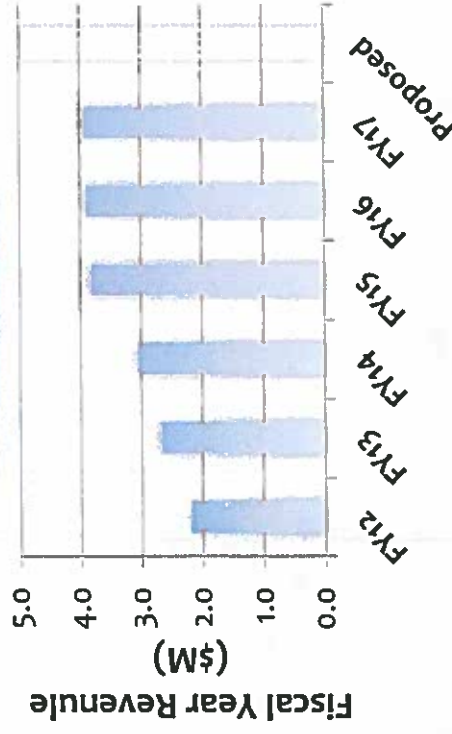
* Revenue generated, FY16: ~\$3.9 M

* Residential: \$2.0 M

* Fire Protection: \$0.02M

* Non-residential: \$1.8 M

* 7 individual customers generate 94% of the non-residential revenue



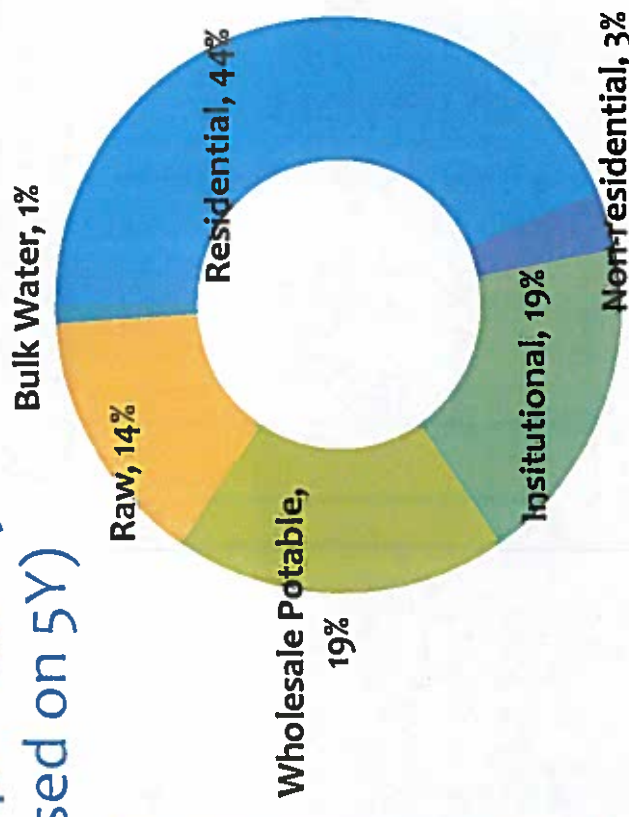
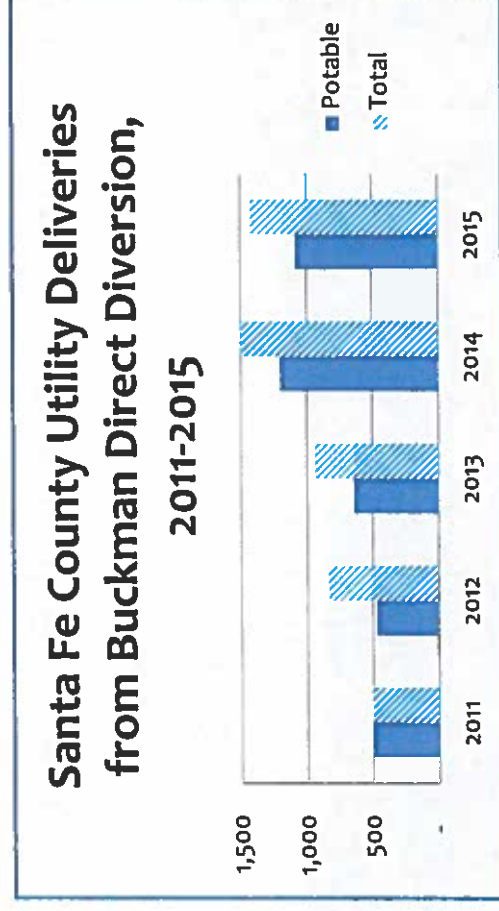
Revenue generated in FY16 by largest customers:

* Las Campanas Club: \$398K	* NM Dept. of Corrections: \$191K
* Las Campanas Coop: \$354K	* IAIA: \$112K
* SF Community College: \$339K	* Dept of Military Affairs: \$66K
* Santa Fe County Jail: \$245K	

Water Use

Water Supply, 2015: 1,370 acre-feet = 446 million gallons (mg)

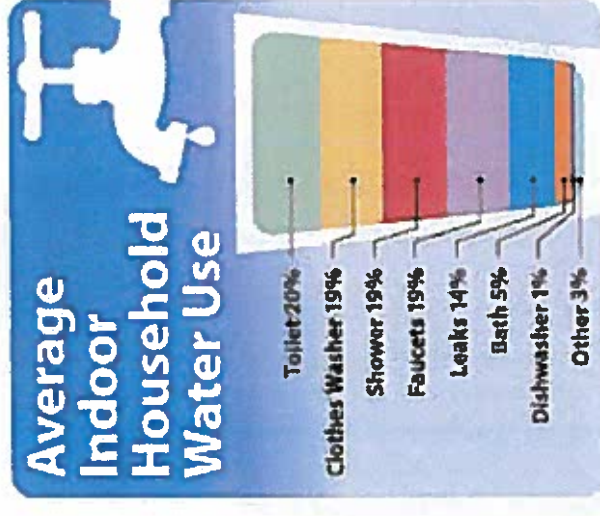
- * Potable: 1,032 acre-feet = 336 mg
- * Raw: 338 acre-feet = 110 mg
- * Source: 89% from BDD; 11% back-up from City of Santa Fe, when BDD is down (based on 5Y)



Residential Potable Water Use

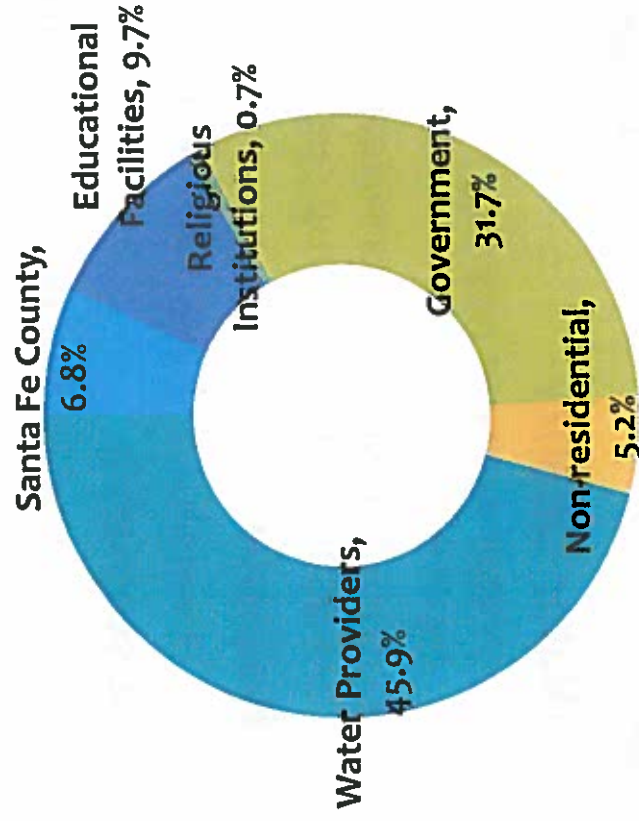
Annual total: 1,032 acre-feet = 336 mg

- * Residential:
- * 51%; 177.4 mg
- * Average water use: 4,914 g/month = 59,000 g/year = 0.18 acre-foot/year (low!)
- * Gallons per capita per day (gpcd):
 - * 67 gpcd year-round
 - * 55 gpcd indoor
- * Use varies geographically



Non-residential Potable Water Use

Non-residential represents 49% of total 171 million gallons per year (mgy)

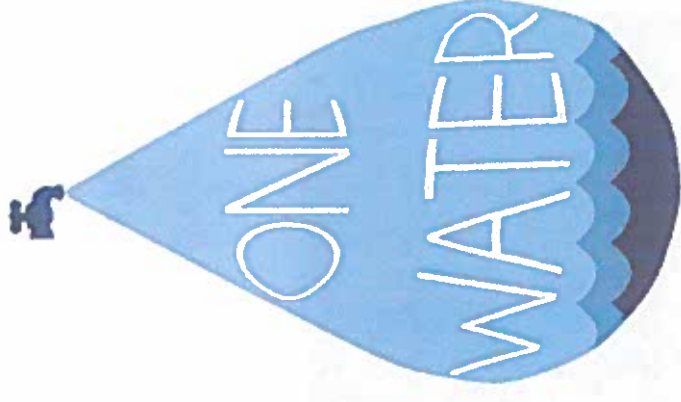


* Largest customers

- * Las Campanas Coop: 72.5 MGY
- * NM Dept. of Corrections: 45.5 MGY
- * SF Community College: 19.9 MGY
- * SFCo Adult Corrections: 12.6 MGY
- * IAIA: 5.2 MGY
- * Agua Fria Water System: 2.4 MGY
- * Dept of Military Affairs: 2.2 MGY
- * Browncastle Ranch: 1.6 MGY
- * Santa Fe Animal Shelter: 1.6 MGY

Safe, Reliable, and Sustainable

- **Water Quality**
 - Water system has high water quality; no regulatory exceedances
 - 2015 Consumer Confidence Report and previous year's water quality testing results on the website
- **Reliable**
 - Diversified: have two sources of supply
- **Sustainable**
 - Renewable surface water supply (via the BDD) represents ~90% of the supply
 - Increases the longevity of the groundwater

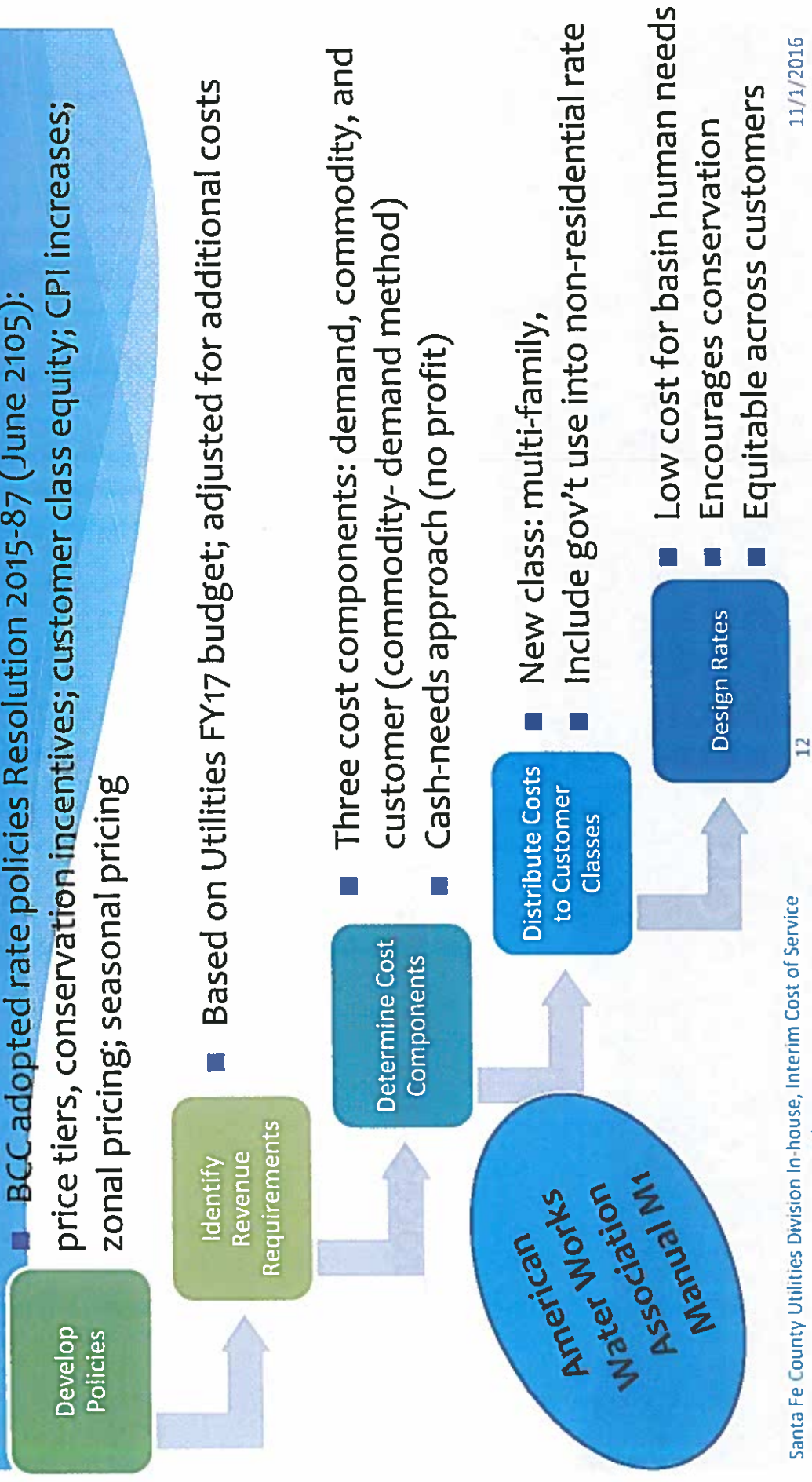


II. Methods of Rate Analysis

- * Process and Method

Process and Method

- BCC adopted rate policies Resolution 2015-87 (June 2105): price tiers, conservation incentives; customer class equity; CPI increases; zonal pricing; seasonal pricing



III. Results and Findings

- * Important Findings
- * Recent / Pending Cost Increases
- * Additional Revenue Needed for Financial Self-Sufficiency
- * Revenue Gap
- * Implications for Rates
- * Proposed Revenue Requirements
- * Cost Components

Important Findings

- * SFCU cost to BDD for potable water is \$5.47 per 1,000 gallons
- * Current rate structure is not equitable across customer classes
- * Utility not currently recovering costs from following classes:
 - * Mutual Domestic / Government (sell at \$3.22 per 1,000 g)
 - * Wholesale potable (sell at \$5.47 per 1,000 g)
- * Similar finding with raw water sales
 - * Cost to SFCU is \$4.71 per 1,000 g; sell at \$4.01 per 1,000 g
- * Non-residential water users include many large, institutional, and governmental customers; few private businesses
- * Average SFCU residential customer uses less than 5,000 gallons/month
 - * Seasonal variability results in higher summertime use

Recent/Pending Cost Increases

- * Increased BDD costs associated with sediment removal:
\$250,000
- * Annual payment of back-up water under City-County 2005 Water Resources Agreement: **\$175,000**
- * Increase of wholesale/ back-up rate from City of Santa Fe from \$3.79/1,000g to \$6.06/1,000g: **\$104,000**
- * Operational cost increases (e.g. salary, benefits, supplies, electricity): **\$87,000**
- * Incorporation of Pojoaque Valley regional water system non-capital costs (salary, outreach, planning): **\$228,000**
- * **Total recent/pending cost increases: \$844,000**

Additional Revenue Needed for Financial Self-Sufficiency

- * BDD Debt Service: **\$3,420,000**
- * Future System Expansion Debt Service (\$23M @5% for 30Y):
\$1,475,000
- * Assets and capital improvements (e.g. vehicle replacement,
upsizing of infrastructure, master meters): **\$210,000**
- * Repair and replacement and emergency funds: **\$224,000**
- * **Total for self-sufficiency: \$5,329,000**

Revenue Gap

* FY17 Operational Costs	\$3,896,000
* Recent/Pending Cost Increases:	\$ 844,000
* Total for self-sufficiency:	\$5,329,000
* Total Annual Revenue Requirement:	\$10,069,000
* Total FY17 Revenue Projections:	\$3,840,000
* Annual Revenue Gap:	\$6,229,000

Implications for Rates

- * To fully recover this shortfall, revenues must increase 260% (from \$3.9 million per year to \$10.1 million per year)
- * Rate shock to customers would be severe
- * Average monthly residential bill would increase from \$52 to \$135
- * Similarly-scaled disruptive shocks to commercial, institutional and wholesale customers

Proposed Revenue Requirements

Line Item	Amount (\$) ¹
BDD Water Supply	1,989,500
Backup Supply	258,681 ²
Personnel	1,416,252
Operations and Maintenance	801,066
Asset Renewal & Replacement	210,000
Transfer to General Fund	135,000
Emergency & Reserves	224,995 ³
Total	5,035,494
BDD Debt Service	3,420,000*
Future Needs/Debt Service	1,613,506*
Grand Total	10,069,000*

¹ Modified from the FY17 Utilities operating budget

² Assumes 11% BDD downtime, \$6.06/1000g City wholesale rate

³ ~2% of estimated infrastructure value; industry standard is 3%

* not included in subsequent rate recovery analysis

Cost Components

Cost Component	Amount (\$)	% of Total
Demand	3,279,195	65.1%
Commodity	838,349	16.6%
Customer Service	917,951	18.2%
Fire Protection	na	-
Total	5,035,494	

- * Demand: fixed costs associated with providing water
- * Commodity: variable costs associated with providing water
- * Customer Service: costs related to meter reading, billing, collecting, adjustments, inquiries, etc.
- * Fire Protection Costs: not included in this analysis

IV. Proposed Actions

- * Phased Rate Increase Approach
- * Changes to Customer Class
- * Proposed Residential Rate After All Phases
- * Proposed Multi-Family Rate
- * Proposed Non-Residential Monthly Service Charge
- * Proposed Rate for Non-Residential After all Phases (with 2 inch or smaller meter)
- * Proposed Rate for High Volume Users After all Phases (with greater than 2-inch meters)

Phased Rate Increase Approach

- * Proposed approach to reduce rate shock:
- * Defer rate recovery of debt service; continued reliance on subsidies from other funds, i.e. only recover \$1.14M with this action
- * Implement a phased rate increase
- * Proposed phased rate increase schedule
 - * Residential: January 2017 and January 2018
 - * Non-residential: January 2017, July 2017, and January 2018
- * Incorporate CPI adjustment to rates beginning January 2019
- * Consolidation of Customer Classes

Changes to Customer Classes

Current Classes

- * Residential
- * Non-residential
- * Wholesale 1
- * Wholesale Government
- * Wholesale 2 = Raw
- * Bulk (potable)



Proposed Classes

- Residential
- Multi-family
- Non-residential (includes business, government, institutional, etc.)
- High-volume
- Raw
- Self-Serve (potable)

Proposed Residential Rate After All Phases

Current		New	Delta
5/8" Monthly Service Charge	\$ 14.50	\$ 18.42	\$ 3.92
1" Monthly Service Charge	\$ 17.99	\$ 21.42	\$ 3.43
Tier 1 (g)	0-5,000	\$ 6.12 0-4,000	\$ 0.00
Tier 2 (g)	5,001-10,000	\$ 8.43 4,001-10,000	\$ 0.57
Tier 3 (g)	10,001-15,000	\$ 13.02 > 10,000	\$ 8.70
Tier 4 (g)	>15,000	\$ 17.62 omitted	

Features:

- This rate structure is affordable for low water-use customers
- 4,000g water user bill will increase \$3.92/mo from \$38.98 to \$42.90
- Average customer bill will increase \$6.54/mo from \$44.55/mo to \$51.09/mo
- Similar to the City of Santa Fe rates in monthly charge and tiers
- New tiers incentivize conservation, even with average water use customer
- Residential customers in W. Sector close to pre-annexation rates

Proposed Multi-family Rate

One Dwelling Unit		e.g. Ten Dwelling Units	
5/8" Monthly Service Charge	\$ 18.42	varies w/ meter size	\$184.20
Tier 1 (g)	0-4,000	\$ 6.12	\$ 6.12
Tier 2 (g)	4,001-10,000	\$ 9.00	\$ 9.00
Tier 3 (g)	>10,000	\$ 21.72	\$ 21.72

Features:

- New class is more equitable
- No current customers in this class
- Applies a multiplier to the monthly service charge based on number of dwelling units
- Applies a multiplier to tier range based on number of dwelling units
- Fixed and variable rates the same as residential (per dwelling unit)
- Several customers anticipated: Elevation, Senior Campus, mobile home parks

Proposed Non-Residential Monthly Service Charge

Meter Size (inches)	CURRENT	NEW
5/8	\$ 30.38	\$ 32.81
3/4	\$ 43.59	\$ 47.08
1	\$ 69.42	\$ 74.97
1 1/2	\$ 133.99	\$ 144.71
2	\$ 211.46	\$ 228.38
3	\$ 407.77	\$ 440.39
4	\$ 484.45	\$ 523.21
6	\$ 964.05	\$ 1,041.17
8	\$ 1,539.58	\$ 1,662.75
10	\$ 2,138.00	\$ 2,309.04

Features:

- 8% increase in each meter size
- Implemented in a single phase for simplicity

Proposed Rate for Non-Residential After all Phases (with 2 inch or smaller meter)

	Current	New	Delta
Tier 1 (g)	0-5,000 \$ 5.91	0-5,000 \$ 6.38	\$ 0.47
Tier 2 (g)	5,001-10,000 \$ 8.16	5,001-10,000 \$ 8.81	\$ 0.65
Tier 3 (g)	10,001-15,000 \$ 12.65	10,001-15,000 \$ 13.66	\$ 1.01
Tier 4 (g)	>15,000 \$ 17.07	>15,000 \$ 18.44	\$ 1.37

Features:

- Tiers do not change
- 8% increase in each tier
- Implemented in 3 phases
- Tiers continue to incentivize conservation
- Customers with > 2-inch meter in different customer class

Proposed Rate for High-volume Users After all Phases (with greater than 2-inch meters)

	Current	New	Delta
Tier 1 (g)	0-5,000 \$ 5.91	All \$ 6.38	\$ 0.47
Tier 2 (g)	5,001-10,000 \$ 8.16		-\$ 1.78
Tier 3 (g)	10,001-15,000 \$ 12.65		-\$ 6.27
Tier 4 (g)	>15,000 \$ 17.07		-\$ 10.69

Features:

- No tiers; all use charged at same rate
- Variable rate of \$6.38
- Increase of 8% above previous Tier 1
- Reduction in rate for all other previous tiers
- Combines several existing customer classes including Mutual Domestic, Government, and Wholesale 1

Proposed Fee Changes

- * Fees scaled to recover service costs
- * Fees will be charged to user of services
- * Fixes water right acquisition costs @ \$16,000/acre foot with ability to adjust
- * Includes a zonal charge for specific circumstances
- * Includes annual increase to all rates beginning CY2019 using consumer price index (CPI) escalator

*Proposed fees
specified in
proposed
Ordinance*

Comparable Residential Rates- 6,000 Gallons per Month

* NMED collects data statewide for 6,000 gallons per month

* **SFC Current - \$53.53**

* **SFC Proposed after phase I - \$59.48**

* **SFC Proposed after phase II - \$60.90**

* City of Santa Fe - \$54.78

* EAWSD (Eldorado) - \$89.70

* Chupadero MDWCA - \$39.00

* Galisteo MDWCA - \$30.00

* Greater Chimayo MDWCA - \$72.45

* Greater Glorieta MDWCA - \$30.00

* City of Las Vegas - \$43.32

*Note = Average
SFC customer uses
4,900 gallons per
month*

Planned Outreach

- * Individual meetings with interested Commissioners
- * Rate/Fee ordinance presentation and request to publish - 11/8/2016 BCC
- * Individual meeting with large customers:
 - * NM Dept. of Corrections, NM Dept. of Military Affairs, Santa Fe Community College, Las Campanas Water Cooperative, SF Co Public Safety, Agua Fria Mutual Domestic
- * Customer bill insert including proposed rate change, notice of public meeting date, and adoption schedule
- * Public meeting for customers
- * Possible outreach and survey via social media
- * Rate/Fee ordinance request for approval - 11/29/2016 BCC

Summary of Proposed Rate and Fee Increases

- * Equitably assigns costs to customer classes
- * Recovers “cost-of-doing-business”
- * Funds utility system repair, replacement and reserves
- * Increases monthly service charge and variable use rate
- * Lowest residential tier range supports conservation
- * 8% increase for non-residential rates (less than 3-inch meter)
- * Combines several current customer classes in to one class of high-volume users to increase equity
- * Charges recover user-based services

